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Send to: Examiner William W. Moore FAX: (703) 746-3169
U.S. Patent and Trademark Office
From: Joseph R. Baker  Date: April 4, 2002
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Serial No. 09/890,323

Filed December 10, 2001

METALLOPROTEINASE-DISINTEGRIN FAMILY MEMBERS: SVPH DNAS AND
POLYPEPTIDES

PLEASE DELIVER THIS FAX IMMEDIATELY TO:

EXAMINER WILLIAM W. MOORE
ART UNIT 1652

**Response to Requirement for Election Under 37 C.F.R. §1.499 with
Appendix A**

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APR 04 2002

GROUP 1600

In the Application of : Cerretti, Douglas P. Art Unit : 1652
Serial No. : 09/890,323 Examiner : Moore, William W.
Filing Date : December 10, 2001
Int'l Serial No. : PCT/US00/01338
Int'l Filing Date : January 21, 2000
Entitled : METALLOPROTEINASE-DISINTEGRIN FAMILY MEMBERS:
SVPH DNAS AND POLYPEPTIDES

BOX NON-FEE AMENDMENT
Commissioner for Patents
Washington, DC 20231

RESPONSE TO REQUIREMENT FOR ELECTION**UNDER 37 C.F.R. §1.499**

Dear Sir:

This paper is submitted in response to the Office Action dated March 15, 2002, restricting the above-identified application to one of 41 Groups:

- Set A: Groups I-XXI ("Nucleic acid compositions and related compositions and methods");
- Set B: Groups XXII-XXXIV ("Disintegrin polypeptide and peptide compositions"); and
- Set C: Groups XXXV-XXXXI ("Antibodies").

The Groups within Sets A, B, and C, are divided based upon SEQ ID Nos. Applicant respectfully traverses the restriction of claims 1-44 to 41 different inventions

The Examiner is respectfully reminded that unity of invention (not U.S. restriction) practice is applicable to international applications and national stage applications filed under 35 U.S.C. §371. The present application was filed under 35 U.S.C. §371 and thus the criteria for unity of invention apply.

The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to be elected.

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USSN 09/890,323

Attorney Docket No. 2517-USA

in a single international or national stage patent application. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept corresponding to a special technical feature. (see, e.g., 37 C.F.R. §1.475; MPEP §§1850, 1875.01, and 1893.03).

In the present application the claims can be divided based upon the special technical features of SVPH1, SVPH3, and SVPH4. Accordingly, during international examination the European Patent Office determined that claims 1-14 directed to the special technical feature of SVPH1 formed a single inventive concept and were examined during the international phase. Contrary to the unity found during the international stage the present Office Action requires election of one of 41 asserted different inventions. Applicant respectfully traverses this requirement for election and requests joinder of the claims of Sets A-C, above, as directed to nucleic acid molecules, polypeptides, and antibodies encompassing the single technical feature of SVPH1 (SEQ ID NOs:12, 13, and 14).

Furthermore, the special technical feature of SVPH1 (e.g., SVPH-1a, 1b, 1c, SEQ ID NO:12, SEQ ID NO:13 and SEQ ID NO:14, respectively) form a single inventive concept being both structurally and functionally related. Provided in Appendix A, attached hereto is a pile-up of SEQ ID Nos:12, 13, and 14 demonstrating the high degree of homology between the SVPH-1a, 1b, and 1c molecules (e.g., SEQ ID NO:12, 13, and 14 share greater than 92% identity across the full length of the sequences). Due to the high degree of homology between SVPH-1a, 1b, and 1c, the relatedness of their activities (e.g., metalloproteinase and/or disintegrin activity), and because the molecules fall within the same search class (e.g., SVPH1 polypeptides are classified in class 435 and subclass 226; Groups XXII-XXIV), searching and examining claims directed to SVPH-1a, 1b, and 1c would not be burdensome to the Examiner. Accordingly, Applicant respectfully requests that the Examiner withdraw the restriction between Groups I- III, VIII-X, XV-XVII, XXII-XXIV, XXIX-XXXI, and XXXV-XXXVII, as directed to the single technical feature of SVPH1.

In order to be fully responsive to the Restriction Requirement, Applicant elects the invention of Group XXII, Claims 4-6, and 13, drawn to a SVPH-1a polypeptide of SEQ ID NO:12 or a polypeptide which comprises SEQ ID NO:12, classified under national practice in class 435, subclass 226. This election is made with traverse.